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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/063,366	04/16/2002	Thomas L. Toth	GEMS8081.102	4573
27061	7590	10/31/2008		
ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (GEMS)			EXAMINER	
136 S WISCONSIN ST			ROY, BAIASKHI	
PORT WASHINGTON, WI 53074			ART UNIT	PAPER NUMBER
			3737	
NOTIFICATION DATE	DELIVERY MODE			
10/31/2008	ELECTRONIC			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

info@zpspatents.com  
rlt@zpspatents.com  
klb@zpspatents.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/063,366	TOTH, THOMAS L.
	Examiner BAISAKHI ROY	Art Unit 3737

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 16 July 2008.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-27 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-27 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application  
6) Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 7/16/08 have been fully considered but they are not persuasive.
2. With respect to the filter of Gordon, applicant is directed to the individual filter segments, 270 and 272 as the spokes extending from the center of the metal disk 262. Gordon clearly teaches a filter 262, divided into six thin and thick segments alternately disposed on the metal disk (col. 13, lines 24-39). Therefore the filtering segments in Gordon are in a spoked relationship with respect to the disk. The segments themselves are the spokes extending radially from the center of the disk to a rim. Gordon also teaches that the segments 270, 272 are alternately disposed as the filter rotates between the two energy levels (col. 14 lines 50-67, col. 15 lines 1-9), which would clearly demonstrate the spoked relationship of the filter segments with respect to the center of the metal disk.
3. Even though Gordon does not explicitly teach a hub structure, it would be obvious that the filtering segments or the spokes radiate out of the center of the disk or a hub like structure. Therefore Rosenthal reference was used to adequately meet the limitation of the structure of a hub supporting the filter segments as demonstrated by the axle 24 supporting the filters 22 for the paddlewheel assembly.
4. With respect to the applicability of Rosenthal in the same field of endeavor as Gordon, Rosenthal uses infrared energy and also collecting data over a large number of wavelengths to detect tissue abnormalities and Gordon use X-ray energy source to

radiate the sample. Even though the references use different types of energy, both references are however using electromagnetic energy sources with multiple filter segments radiating from a disk or wheel structure corresponding to different energy levels/wavelengths to acquire image data at different energy levels. It would therefore be obvious to one of ordinary skill in the art that Gordon and Rosenthal can be considered to be in same field of endeavor since both references are functioning in a similar manner using different energy sources to generate image data at different wavelengths. Examiner would further like to point out that Rosenthal, as the secondary reference was simply used to adequately meet the hub structure limitation, as claimed and Gordon is still the primary reference to cover the multi-energy CT system with the multiple filters. Examiner is not suggesting the substitute of the whole disk/filter assembly of Gordon with the paddle wheel assembly of Rosenthal since the filter segments of each are clearly used to project different energy sources. The combination of the references would result in the modification of the disk assembly of Gordon with a specific central hub structure. Therefore it would be obvious to one of ordinary skill in the art modify the disk/filter assembly of Gordon with a specific hub structure or the axle structure of Rosenthal to better accommodate or support the filter segments as they rotate between the energy levels.

5. The previous rejection is therefore maintained and repeated below.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon et al. in view of Rosenthal (4017192). Gordon et al. disclose a CT system comprising: a rotatable gantry (124) having an opening (126) for receiving a subject to be scanned; an HF electromagnetic energy source (128) configured to project a number of HF electromagnetic energy beams toward the subject; a generator (136) configured to energize the HF electromagnetic energy source to at least a first energy state ( $V_1$ ) and a second energy state ( $V_2$ ) (col. 7, lines 12-32); a number of HF electromagnetic energy filters (270, 272) positional between the HF electromagnetic energy source and the subject, the number of HF electromagnetic energy filters include at least a first filter (270) and a second filter (272).

The system includes the method of positioning the first filter (270) between the HF electromagnetic energy source and the subject when the HF electromagnetic energy source is energized to the first energy state, a first voltage ( $V_1$ ) and the second filter (272) is positioned between the HF electromagnetic energy source and the subject when the HF electromagnetic energy source is energized to the second energy state, a second voltage ( $V_2$ ) (col. 13, lines 57-66); and wherein only one of the first filter and the second filter is positioned between the HF electromagnetic energy source and the subject when the HF electromagnetic energy source is energized either to either one of the first energy state or the second energy state. Gordon et al. also teach said

electromagnetic energy source and filters being rotatable about the subject (col. 14 lines 5-17).

The filtering apparatus includes a center portion of the wheel having a generally circular cross-section (col. 13 lines 15-20), with segments or connection ports for each filter up to six filters (col. 13 lines 24-39).

The scanner is useful for scanning luggage or mail packages (col. 16 lines 45-48).

With respect to the filtering apparatus structure, the individual filter segments, 270 and 272 as the spokes extending from the center of the metal disk 262. Gordon clearly teaches a filter 262, divided into six thin and thick segments alternately disposed on the metal disk (col. 13, lines 24-39). Therefore the filtering segments in Gordon are in a spoked relationship with respect to the center. The segments themselves are the spokes extending radially from the center of the disk to a rim. Gordon also teaches that the segments 270, 272 are alternately disposed as the filter rotates between the two energy levels (col. 14 lines 50-67, col. 15 lines 1-9) and would therefore be obvious to one of ordinary skill in the art that the filtering apparatus demonstrates the spoked relationship of the filter segments with respect to the center of the disk. However Gordon et al. do not explicitly teach a hub structure. In the same field of endeavor Rosenthal discloses an optical system and method for detecting tissue abnormalities and includes a filtering apparatus. The multiple filter assembly 20 is in the form of a paddlewheel with three optical interference filters 22 mounted on a hexagonal axle 24. It would have therefore been obvious to one of ordinary skill in the art to use the

teaching by Rosenthal to modify the teaching by Gordon et al. for enabling effective rotation of the paddlewheel and the filters for effective illumination of the specimen.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BAISAKHI ROY whose telephone number is (571)272-7139. The examiner can normally be reached on M-F (7:30 a.m. - 4p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BRIAN CASLER/  
Supervisory Patent Examiner, Art  
Unit 3737

BR  
/B. R./  
Examiner, Art Unit 3737